

ECONOMIC DEVELOPMENT AUTHORITY[261]

Adopted and Filed

Pursuant to the authority of Iowa Code section 15.106A, the Economic Development Authority amends Chapter 65, “Brownfield and Grayfield Redevelopment,” Iowa Administrative Code.

The amendments adopted herein are intended to prevent a project from receiving brownfield or grayfield redevelopment tax credits more than once for the same site. These amendments define the conditions under which a project is deemed to be receiving tax credits for the same site more than once and thus deemed ineligible to receive tax credits.

Notice of Intended Action was published in the Iowa Administrative Bulletin on April 17, 2013, as **ARC 0686C**. No public comment was received on the amendments. These amendments are identical to those published under Notice of Intended Action.

These amendments were adopted by the Economic Development Authority Board on July 19, 2013.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code sections 15.291, 15.292, 15.293A and 15.293B.

These amendments shall become effective September 11, 2013.

The following amendments are adopted.

ITEM 1. Adopt the following **new** definitions of “Affiliate” and “Previously remediated or redeveloped” in rule **261—65.2(15)**:

“*Affiliate*” or “*affiliated entity*” means any entity to which one or more of the following applies:

1. The entity directly, indirectly, or constructively controls another entity.
2. The entity is directly, indirectly or constructively controlled by another entity.
3. The entity is subject to the control of a common entity. A common entity is one which owns directly or individually more than 10 percent of the voting securities of the entity.

“*Previously remediated or redeveloped*” means any prior remediation or redevelopment at a brownfield or grayfield site, including development for which an application for or an award of brownfield or grayfield tax credits has been made.

ITEM 2. Amend rule **261—65.2(15)**, definition of “Qualifying redevelopment project,” as follows:

“*Qualifying redevelopment project*” means a brownfield or grayfield site being redeveloped or improved by the property owner. “Qualifying redevelopment project” does not include a previously remediated or redeveloped brownfield or grayfield site.

ITEM 3. Adopt the following **new** subrule 65.3(3):

65.3(3) *Phased projects ineligible for tax credits.* Tax credits for brownfield and grayfield redevelopment are only available for qualifying redevelopment projects. Because a qualifying redevelopment project does not include a previously remediated or redeveloped site, a project for subsequent redevelopment at the same site for which tax credits have already been awarded is not eligible for additional tax credits on redevelopment at that site. The authority and the council will determine whether a project constitutes subsequent redevelopment at the same site by considering the following factors:

- a. Whether the redevelopment described in multiple proposed projects is planned for a single parcel.
- b. Whether the redevelopment described in multiple proposed projects is planned for adjacent or contiguous parcels or parcels in very close physical proximity.
- c. Whether all involved parcels are owned by the same entity, different entities, or affiliated entities.
- d. Whether a proposed project is the result of the same planning process as another project.
- e. Whether the proposed projects are being developed by the same entity, different entities, or affiliated entities.

f. Whether the development of one proposed project reflects a temporal connection to another proposed project.

[Filed 7/19/13, effective 9/11/13]

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/7/13.